IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.10.2024
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.31268 of 2024
and
W.M.P.Nos.33901 & 33902 of 2024

Tvl. Sri Vijayalakshmi Spinners,
rep. by its Partner, D.Uma Maheswari. ...Petitioner

Vs.

1. The Deputy Commissioner (ST)
(GST) (Appeal) Erode & Salem,
Integrated New Commercial Taxes Building,
3rd Floor, S.F.No.400/1,7,8,46 Pudur B Village,
Erode – 638 002.

2. The State Tax Officer,
Udumalpet North 2 Assessment Circle,
Udumalpet -642 112. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the first respondent in his order in ROC No.1558/2024/A1 dated 07.08.2024 and to quash the same and to direct the first respondent to take up the Appeal filed by the petitioner on 26.03.2024 on record and decide the same in accordance with law.

For Petitioner : Mr.S.Ramanathan

For Respondents : Mr. V.Prashanth Kiran
Government Advocate (T)

Order

With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the first respondent dated 07.08.2024 and to quash the same and to direct the first respondent to take up the Appeal filed by the petitioner on 26.03.2024 on record and decide the same in accordance with law.

3. Mr.S.Ramanathan, the learned counsel for the petitioner would submit that aggrieved against the order passed by the second respondent, the petitioner preferred an Appeal before the first respondent, but the first respondent dismissed the Appeal on the ground the same has been filed beyond the condonable delay, i.e. 144 days. The learned counsel contended that the petitioner was not served with the physical copy of the order and DRC 07, Summary of the Order dated 03.07.2024, therefore, the petitioner was not totally unaware of the orders passed by the second respondent, only when the second respondent contacted the petitioner over phone and demanded the tax and penalty during the third week of March, 2024, the petitioner came to know about the order passed by the second respondent, immediately thereafter, the petitioner filed Appeal before the first respondent, however, with a delay, but the first respondent refused to condone the delay and entertain the Appeal and vide the impugned order dated 07.08.2024 dismissed the Appeal.

3.1 Therefore, the learned counsel prayed that delay may be condoned and the Appellate Authority may be directed to take up the Appeal on record and dispose of the same on merits.

4. Mr.V.Prashanth Kiran, the learned Government Advocate (T), who takes notice for the respondents fairly submitted that the delay may be condoned and suitable orders may be passed with regard to the disposal of the Appeal.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. Taking into consideration of the submissions made on either side and perusal of records, it is clear that the delay is neither willful nor wanton, but owing to the fact that the petitioner was not aware of the order/summary of the order passed by the second respondent dated 03.07.2024 since the petitioner was not served with the physical copy of the orders and only when the second respondent contacted the petitioner over phone and demanded the tax and penalty during the third week of March, 2024, the petitioner came to know about the order passed by the second respondent, immediately thereafter, the petitioner filed Appeal before the first respondent, however, there happened to be a delay of 144 days, which is neither willful nor wanton. Hence, this Court is of the view that the reasons assigned for the delay in filing the Appeal appears to be genuine and is inclined to dispose of the Writ Petition with the following directions/orders:-

i) The Delay in filing the Appeal is condoned.

ii) The first respondent/Appellate Authority is directed to take up the Appeal filed by the petitioner on file and dispose the same in accordance with law.

7. The Writ Petition is disposed of accordingly. No costs.. Consequently, connected Miscellaneous Petitions are closed.

21.10.2024

sd

Index : yes/no
Neutral Citation : yes/no

To
1. The Deputy Commissioner (ST)
(GST) (Appeal) Erode & Salem,
Integrated New Commercial Taxes Building,
3rd Floor, S.F.No.400/1,7,8,46 Pudur B Village,
Erode – 638 002.

2. The State Tax Officer,
Udumalpet North 2 Assessment Circle,
Udumalpet -642 112.

Krishnan Ramasamy,J.,

sd

W.P.No.31268 of 2024

21.10.2024